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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/181,671	10/29/98	MEISEL	PM256868

HM22/0327

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EXAMINER

DAVIS, B

ART UNIT	PAPER NUMBER
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1621

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DATE MAILED: 03/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/181,671

Applicant(s)
Meisel et al.

Examiner
Brian J. Davis

Group Art Unit
1621



☒ Responsive to communication(s) filed on applicant's request for reconsideration received 2/16/00 (Paper No. 7)

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-3 and 16 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 and 16 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☒ received in Application No. (Series Code/Serial Number) 09/004,926.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

103 Rejections Maintained

1. Claims 1-3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4200259 and further in view of the *Kirk-Othmer Encyclopedia of Chemical Technology*, 4th ed., Vol 7, 1993, pp. 700-702 for the reasons set forth in paper No. 6.
2. Applicant's arguments filed 2/16/00 have been fully considered but they are not persuasive.
3. The examiner respectfully suggests that applicants submit a declaration which contains a side-by-side comparison of the diffraction pattern of the prior art crystals with the three diffraction patterns of the instant claims. Following the reasoning of In re Grose and Flanigen, 201 USPQ 57, 1979, CCPA, if it can be persuasively shown that the diffraction patterns are indeed different and distinct, then the instant claims would be allowable, provided that the prior art does not enable the preparation of the instantly claimed forms.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
5. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Brian Davis whose telephone number is (703) 305-7129. The examiner can normally be reached M-F from 8:30 to 5:00.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached M-F from 8:30-5:00 at (703) 308-4532. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

B(1) / 3/24/00

Brian J. Davis

Assistant Examiner

Johann Richter

Johann Richter

Supervisory Patent Examiner

Technology Center 1600